

Offence Arising from the Use of Cheque Act, B.E. 2534 (1991)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 12th Day of August, B.E. 2534;

Being the 46th Year of the Present Reign

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:
Whereas it is expedient to revise the law governing offence arising from the use of cheque;
Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1

This Act shall be called the "Offence Arising from the Use of Cheque Act, B.E. 2534 (1991)."

Section 2

This Act shall come into force from the date following its publication in the Royal Gazette.

Section 3

The following shall be repealed:

- (1) Offence Arising from the Use of Cheque Act, B.E. 2497 (1954);
- (2) Announcement of the National Executive Council No. 196 dated 8th August, B.E. 2515 (1972).

Section 4

Whoever issues a cheque for the payment of an existing and legally enforceable debt, with any of the following natures or acts:

- (1) intending that the payment of such cheque shall not be made;
- (2) having no funds in the account payable at the time such cheque is issued;
- (3) making order for payment higher than the funds in the account payable at the time such cheque is issued;
- (4) withdrawing the funds in whole or in part from the account payable to a cheque, to the extent that the amount is insufficient to meet such cheque;
- (5) making dishonest order to a banker not to pay such cheque.

When the cheque is legally presented for payment, if a banker refuses to pay such cheque, the drawer is said to commit an offence, and shall be punished with fine not exceeding sixty thousand Baht or imprisonment not exceeding one year, or both.

Section 5

The offence under Section 4 is compoundable offence.

Section 6

The custody or detention of the alleged offender or the defendant under this Act shall be in accordance with the law governing the criminal procedure in Kwaeng Court. If the alleged offender or the defendant files an application for provisional release, the inquiry official, the public prosecutor, or the court shall grant provisional release with bail but without security, or with bail and security not exceeding one thirds of the amount on the cheque.

Section 7

If the offender under Section 4 makes payment of cheque to the holder or to a banker within thirty days from the date on which the drawer receives the written notice from the holder notifying that a banker refuses to pay such cheque, or the obligation which the offender under Section 4 issues a cheque for payment is ceased to be binding before the court passes the final judgment, it shall be deemed the offence is settled under the Criminal Procedure Code.

Section 8

If the amount of each cheque or the amount of several cheques altogether, does not exceed the amount, which a single judge is empowered to try and adjudicate in a civil case, the filing of civil case to demand the payment of cheque may be included in the prosecution of criminal case to the court trying the criminal case. The trial of the civil case shall be preceded in accordance with the provisions of the Civil Procedure Code.

Section 9

Regarding all offences under the Offence Arising from the Use of Cheque Act, B.E. 2497 (1954) amended by the Announcement of the National Executive Council No. 196 dated 8th August, B.E. 2515 (1972), which are during the inquiry of the inquiry official or during the prosecution of the public prosecutor before the date on which this Act comes into force, the inquiry of inquiry official or the prosecution of the public prosecutor, which has been carried out under the laws applicable before the date on which this Act comes into force, shall be valid. However, the further proceedings shall be in accordance with this Act except for the case that the alleged offender had been kept in custody or detained before the date on which this Act came into force. In such case, further custody or detention under this Act, together with the custody or detention of the alleged offender before the date on which this Act comes into force, shall not exceed the period of custody or detention specified in the laws applicable before the date on which this Act comes into force.

Section 10

Regarding all offences under the Offence Arising from the Use of Cheque Act, B.E. 2497 (1954), amended by the Announcement of the National Executive Council No. 196 dated 8th August, B.E. 2515 (1972), which are pending of any court before the date on which this Act comes into force, such court shall proceed with the trial and adjudication.

Section 11

The Minister of Interior and the Minister of Justice shall be in charge of this Act.

Countersigned by

Mr. Anand Punyarachun

Prime Minister

Remarks

The reason for the promulgation of this Act is as follows:

Whereas the Offence Arising from the Use of Cheque Act B.E. 2497 (1954) has come into force for years. Some existing provisions are inappropriate. Accordingly, it is expedient to revise the provisions and expressly specify that the issuance of cheque, which shall be deemed the offence under this Act, must only be the issuance for a binding effect and a payment of legally enforceable debt. Furthermore, the punishment with fine shall be specified for not exceeding sixty thousand Baht, so as to apply the cases prosecuted under this Act to be within the jurisdiction of Kwaeng court. In addition, the alleged offender or the defendant may be granted provisional release without security. However, if an

application for provisional release has to be granted with security, such security shall not exceed one thirds of the amount on the cheque. Besides, it is expedient to specify that the filing of civil cases, in accordance with the cheque that have the amount not exceeding the amount which a single judge is empowered to try and adjudicate, may be included in the prosecution of criminal cases. On these grounds, it is necessary for the enactment of this Act.

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